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November 14, 2014

VIA ECF & HAND DELIVERY

Honorable William H. Pauley III  
United States District Judge  
500 Pearl Street, Room 2210  
New York, NY 10007-1312

Re: *In re: Platinum and Palladium Commodities Litig.*,  
Case No. 10-cv-3617 (WHP) (S.D.N.Y.)  
Physicals Class

Dear Judge Pauley,

As counsel for the Physicals Plaintiffs and Class ("Plaintiffs"), I submit this letter and enclose exhibits pursuant to Your Honor's directions at the November 12, 2014 preliminary approval hearing concerning Plaintiffs' proposed Settlement with James W. Giddens (the "Trustee") as trustee for the liquidation of MF Global Inc. ("MF Global") under the Securities Investor Protection Act, the sole remaining non-settling defendant in this action

To comply with the Court's instructions, Physicals Plaintiffs have made revisions to their settlement documents in accordance with changes made by the Futures Class. The Physicals Plaintiffs have already shared these draft revisions and this letter with counsel for the Trustee for the MF Global SIPA liquidation, and have made the following proposed revisions to the four settlement-related documents described below, each of which is attached as an Exhibit hereto.

**Exhibit 1, [Proposed] Scheduling Order.** Pursuant to the Court's directions at the November 12, 2014 hearing, Plaintiffs have removed references to term "preliminary approval" in the Scheduling Order and have appropriately titled the Scheduling Order to reflect this revision. Exhibit 1, *passim*. Plaintiffs have filled in

the date for the fairness hearing, scheduling it for February 13, 2015 at 11:00 a.m., which is the same date and time of the fairness hearing previously scheduled by the Court for Plaintiffs' separate proposed settlement with the Moore Capital Defendants and Defendant Joseph Welsh. Plaintiffs also have revised the language in the Scheduling Order concerning the requirements for objecting to the proposed Settlement consistent with the Court's instructions. *Id.* ¶ 14. The revised order also reflects two publications in the *Wall Street Journal*. *Id.* ¶ 8.

Although not discussed at the November 12, 2014 hearing, Plaintiffs have revised paragraphs 25 and 26 of the Scheduling Order to allow for the payments by MF Global Assurance Company Limited and MF Global Holdings, Ltd. to be made into separate Court Registry Investment System ("CRIS") accounts. *Id.* ¶¶ 26-27. Plaintiffs believe this change is appropriate because, as provided for in paragraph 20 of the [Proposed] Final Order and Judgment, the \$200,000 payment by MF Global Holdings (which is being made in exchange for Plaintiffs' agreement to assign to MF Global Holdings their rights in connection with the Welsh Judgment and assignment that was part of the consideration provided to Plaintiffs in their settlement with the Moore Capital Defendants and Defendant Welsh) will ultimately, subject to approval of the proposed Settlements, become part of the settlement fund associated with the Moore Capital settlement. *See* Exhibit 4, Final Order and Judgment, ¶ 20.

**Exhibit 2, Long Form Notice.** Pursuant to the Court's instructions at the November 12, 2014 hearing, Plaintiffs have revised the long form notice. First, Plaintiffs have prominently advised Physicals Class members (twice on the first page of the notice) the notice they are receiving is separate and in addition to the notice they previously received concerning the Physicals Plaintiffs' settlement with the Moore Capital Defendants and Defendant Welsh such that the notice requires their separate review. *See* Exhibit 2, p. 1. To the extent practicable, Plaintiffs will cause this language to be printed in red lettering. Additionally, Plaintiffs have instructed the Settlement Administrator to place similar language on the outside of the mailing envelope to further alert Physicals Class members of the new information contained in the notice.

Second, Plaintiffs also have inserted language in the notice informing Physicals Class members that while they need only file a single proof of claim to participate in both settlements, they must submit separate objections and/or separate requests for exclusions in respect of each of the two proposed settlements. *Id.* pp. 1, 6-7. Third, Plaintiffs have removed references to preliminary approval of the proposed Settlement with Defendant MF Global from the notice. *Id. passim*. Fourth, Plaintiffs have revised the language concerning the requirements for objecting to the proposed Settlement consistent with the Court's instructions. *Id.* pp. 6-7. Finally, several typographical errors were fixed.

**Exhibit 3, Publication Notice.** Pursuant to the Court's instructions at the November 12, 2014 hearing, Plaintiffs have revised the publication notice to make clear to Physicals Class members the proposed Settlement with Defendant MF Global is separate and in addition to the previous \$9,355,000 settlement with the Moore Capital Defendants and Defendant Joseph Welsh such that it requires separate review. Exhibit 3, p. 1. To the extent practicable with the different publications, Plaintiffs will cause this language to be published in red lettering.

**Exhibit 4, [Proposed] Final Order and Judgment.** To comply with the Court's directions at the November 12, 2014 hearing, Plaintiffs have also revised the [Proposed] Final Order and Judgment to remove references to preliminary approval. Exhibit 4, *passim*.

For the Court's convenience, Plaintiffs have attached two versions of each Exhibit, a clean copy incorporating the proposed revisions and a redline copy reflecting all proposed revisions.

Accordingly, Plaintiffs respectfully request the Court enter the [Proposed] Scheduling Order and thereby (1) schedule a fairness hearing for February 13, 2015 at 11:00 a.m. concerning final approval of both settlements, and (2) approve the dissemination of notice of the proposed Settlement with Defendant MF Global, Inc. to the Physicals Class.

Thank you.

Respectfully submitted,

/s/ John A. Lowther